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GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE STATE BUDGET
LANSING

ROBERT L. EMERSON
DIRECTOR

January 4, 2007

MEMORANDUM

TO: Finance and Administrative Officers, and Chief Accountants
All State Agencies

FROM: Ed Dettling *ED*
Payroll and Tax Reporting Division
Office of Financial Management

SUBJECT: Backup Withholding on Vendor Payments

Approximately 71 additional vendors will have backup withholding at a rate of 28% on 1099 reportable payments made starting January 3, 2007. The Internal Revenue Service requires backup withholding because the vendors/payees have not responded to "B notices" mailed to them.

Because of privacy issues with tax identification numbers, a list of vendors for which the State must impose backup withholding will no longer be included in these memos. Agencies can identify vendors subject to backup withholding by checking the backup withholding indicator on the ADPICS 5200 screen (Vendor Table Maintenance).

We will discontinue backup withholding if the vendor/payee certifies their correct name/Taxpayer Identification Number (TIN) as instructed in the "B notice". We are precluded by IRS regulations from refunding amounts withheld prior to certifying the name/TIN. However, the vendor/payee can take credit for the withholding when they file their tax return.

Agencies may receive questions from vendors/payees regarding backup withholding. To assist you in answering questions from vendors, we have attached sample "B notices" (first and second) and a list of common questions and answers regarding backup withholding.

If you have any questions regarding this memo, please contact me at (517) 335-7269.

Attachments

cc: M. Moody
R. Mealy
L. Mester
D. Ringler
J. Paxton

First B Notice

IMPORTANT TAX NOTICE ACTION IS REQUIRED

Backup Withholding Warning!

We need a Form W-9 from you before the date shown below.

Date: December 18, 2006. Otherwise, backup withholding will begin.

Current Name on Account: «Name»

Current TIN on Account: «TIN»

The Internal Revenue Service (IRS) has notified us that the taxpayer identification number (TIN) on your account with us does not match their records. The IRS considers a TIN as incorrect if either the name or number shown on an account does not match a name and number combination in their files or the files of the Social Security Administration (SSA). If you do not take appropriate action to help us correct this problem before the date shown above, the law requires us to withhold 28 percent of the interest, dividends, and certain other payments that we make to your account. This is called backup withholding.

In addition to backup withholding, you may be subject to a \$50 penalty by the IRS for failing to give us your correct Name/TIN combination.

This notice tells you how to help us make your account records accurate and how to avoid backup withholding and the penalty.

Why Your TIN May Be Considered As Incorrect.

An individual's TIN is his or her social security number (SSN). Often a TIN does not match IRS records because a name has changed through marriage, divorce, adoption, etc., and the change has not been reported to SSA, so it has not been recorded in SSA's files.

Sometimes an account or transaction may not contain the correct SSN of the actual owner. For example, an account in a child's name may reflect a parent's SSN. (An account should be in the name and SSN of the actual owner.)

What You Need To Do.

Individuals

If you have never been assigned a social security number (or if you lost your social security card and do not know your SSN):

Call your local SSA office and find out how to obtain an original (or a replacement) social security card. Then apply for it.

If you already have a social security number: Compare the name and SSN on your account with us (shown at the beginning of this notice) with the name and SSN shown on your social security card. Then use the chart on the next page to decide what action to take.

IF-

1. The last name and SSN on your account agree with the last name and SSN on your social security card

Then-

1. Contact your local SSA office to ascertain whether the information on SSA's records is different from that on your social security card, and to resolve any problem. Also, put your name and SSN on the enclosed

Form W-9 following the instructions on the form. Sign the Form W-9 and send it to us.

2. The SSN on your account is different from the SSN on your social security card, but the last name is the same
 3. The last name on your account is different from the last name on your social security card, but the SSN is the same on both
 4. Both the last name and SSN on your account are different from the information on your social security card
2. Put your name and SSN, as shown on your social security card, on the enclosed Form W-9, following the instructions on the form, sign it, and send it to us. You do not need to contact SSA.
 3. Take *one* of the following steps (but not both):
 - (a) If the last name on your *account* is correct, contact SSA to correct the name on your social security card. Put your SSN and name shown on your account on the enclosed Form W-9 following the instructions on the form, sign it, and send to us. However, if you are not able to contact SSA at this time, you can provide us with both last names. Put your SSN and the name shown on your social security card plus the last name shown on your account (in that order) on the enclosed Form W-9 following the instructions on the form, sign it, and return it to us. For example, if your social security card lists your maiden name, give us your SSN and your name in the following order: First/maiden/married name. Please note, however, that you should contact SSA as soon as possible so they can correct their records.
 - (b) If the last name on your *social security card* is correct, put that name and your SSN on the enclosed Form W-9 following the instructions on the form. Sign it, and return to us. You do not need to contact SSA.
 4.
 - (a) If the last name and SSN on your social security card are correct, put that name and SSN on the enclosed Form W-9 following the instructions on the form. Sign it, and send it to us. You do not need to contact SSA.
 - (b) If the last name on your account and the SSN on your social security card are correct, follow the procedure in section 3(a) above. Be sure to put the name shown on your account and the name on your social security card on the form W-9.

Once you have resolved what your correct name and TIN combination is, you must provide this information to us (and all your other payers) for all of your accounts to avoid a problem in the future. If you are required to visit a SSA office, take this notice, your social security card, and any other related documents with you. *Before you go*, you should call SSA so that they can explain what other documents you may need to bring.

Instructions for Non-individuals and Certain Sole Proprietors

For most ***Non-individuals*** (such as trusts, estates, partnerships, and similar entities), the TIN is the employer identification number (EIN). The EIN on your account may be incorrect because it does not contain the number of the *actual* owner of the account. For example, an account of an investment club or bowling league should reflect the organization's own EIN and name, rather than the SSN of a member. Please put the name and EIN on the enclosed Form W-9, sign it, and send it to us.

A ***sole proprietor*** must furnish his or her individual name and either his or her SSN or the EIN for his or her sole proprietorship. In addition to his or her individual name, the sole proprietor may also furnish the business name for the sole proprietorship, provided his or her individual name is listed before the business name. A sole proprietor must not furnish only the business name. Please put the individual name and SSN or EIN on the enclosed Form W-9, sign it, and send it to us.

Important Reminder!

YOU MUST SEND US A SIGNED IRS FORM W-9 BY THE DATE OF THIS NOTICE even if the name and number (SSN or EIN) on your account with us match the name and number (SSN or EIN) on your social security card or the document issuing you an EIN. If we do not receive your Form W-9 or any other documents that we need to change the name or TIN (or both) on your account before the date of this notice, we are required by law to backup withhold on any reportable payment that we pay to your account until we receive the necessary documents. A Form W-9 is enclosed for your convenience.

Second B Notice

IMPORTANT TAX NOTICE ACTION IS REQUIRED

Second Backup Withholding Warning!

**YOU MUST HAVE THE IRS OR SSA VALIDATE YOUR
TAXPAYER IDENTIFICATION NUMBER
AND RETURN IT TO US BEFORE THE DATE SHOWN BELOW**

Date: December 18, 2006. Otherwise, backup withholding will begin.

Current Name on Account: «Name»

Current TIN on Account: «TIN»

We have received notice from the Internal Revenue Service (IRS) twice within 3 years stating that the combination of the name and taxpayer identification number (name/TIN combination) with us is incorrect. (Your current name and current taxpayer identification number (TIN) on our file are shown above.) A name/TIN combination is incorrect if it does not match a name/TIN combination shown on the records of the Social Security Administration (SSA) or the IRS.

You should follow the instructions below to correct this problem and send, or have sent, the corrected information to us before the date shown above. If we do not have the correct information before that date, the law requires us to withhold on interest, dividends, and certain other payments that we make to you. The backup-withholding rate is: 28%.

Section 3406 of the Internal Revenue Code requires that we **withhold 28 percent** in tax, called backup withholding, when you do not give us your correct name/TIN combination. Because of the notices we received from the IRS, we are now required to disregard any future name/TIN combinations you furnish us for payments (whether or not you certify your TIN under penalties of perjury) unless SSA (or, in the case of an incorrect employer identification number, the IRS) validates your name/TIN combination. Also the IRS may charge you a \$50 penalty for failing to provide us with your correct name/TIN combination.

What You Need To Do.

Follow the instructions below to correct your account record to avoid backup withholding on your account (or to stop it if it has begun) and to avoid the penalty.

Individuals/Instructions for Incorrect Social Security Numbers

If the incorrect TIN you furnished us is a social security number, you must:

1. Contact your local SSA office by telephone and ask what you need to do to correct the problem for backup withholding tax purposes;
2. Give a copy of this notice to the SSA; and
3. Request and authorize the SSA to send FORM SSA-7028, Notice to Third Party of Social Security Number Assignment, directly to us at The State of Michigan, Department of Management and Budget, OFM Help Desk, P O Box 30026, Lansing, MI, 48909, with a copy of this notice attached.

Non-individuals or Certain Sole Proprietors

Instructions for Incorrect Employer Identification Numbers

If the incorrect TIN you furnished is an employer identification number, you must:

1. Write the Internal Revenue Service Center (Attn. Entity Section) where you file your income tax return, and ask the IRS to *send you* a Letter 147C;
2. Enclose a copy of this notice in your letter to the Internal Revenue Service Center; and
3. When the IRS sends you the Letter 147C, send it to us at the State of Michigan, Department of Management and Budget, OFM Help Desk, P O Box 30026, Lansing, MI, 48909, with a copy of this notice attached.

Backup Withholding Questions and Answers

What is a B Notice? A B Notice is a notice from the IRS to a payer notifying the payer that the name, taxpayer identification number (TIN), or name/TIN combination provided by the payee has been determined to be incorrect. It also refers to the notice the payer is required to send the payee after such notification by the IRS.

What is the difference between a First B Notice and a Second B Notice? A First B Notice is issued if the payee has not received any other B Notices within the last three calendar years. When a payee receives a first B Notice, it must provide the payer a signed W-9 form certifying their correct name/TIN combination.

A second B Notice is issued if the payee has received a prior B Notice within the last three calendar years. If a payee receives a second B Notice and the incorrect TIN is a social security number, it must certify its correct name/TIN combination by requesting that the Social Security Administration forward Form SSA-7028 to the payer. If the incorrect TIN is an employer identification number, the payee must obtain Letter 147C from the IRS and forward a copy to the payer.

What is backup withholding? The withholding of 28% from certain types of payments (usually 1099 reportable) made in the course of one's trade or business when the payee fails to certify its correct name/TIN combination as instructed in the B Notice.

How can vendors/payees subject to backup withholding be identified? Vendors/payees subject to backup withholding will have a "Y" in the backup withholding indicator on the ADPICS 5200 screen (Vendor Table Maintenance).

What types of payments are subject to backup withholding? Generally, any 1099 reportable payments are subject to backup withholding. Examples include:

- 1) Fees, commissions, or other forms of payments for services rendered by persons not treated as your employees.
- 2) Prizes, awards, or other payments that are not for services rendered or direct sales of \$5,000 or more of consumer products for resale.
- 3) Payments for royalties or for rents other than rent payments to real estate agents.
- 4) Payments to physicians or other suppliers or providers of health care services in connection with medical assistance programs or health, accident, and sickness insurance programs.
- 5) Interest reported on Form 1099-INT.

To determine if a comptroller object is 1099 reportable, agencies can inquire on the D10 profile in R STARS. An “N” in the 1099 indicator field indicates that payments made using that comptroller object would not be reported on a 1099 statement. A number in the 1099 indicator field indicates that payments made using that object are 1099 reportable.

When can backup withholding stop? When a payee certifies its correct name/TIN combination as instructed in the B Notice. Amounts that were previously withheld cannot be refunded. These amounts will be reported on the 1099-MISC or 1099-INT statement for that year. The payee will get credit for the withholding, the same as employees get credit for the taxes withheld from their paychecks.

How does the State of Michigan comply with the rules relating to B Notices and backup withholding?

The Office of Financial Management (OFM) periodically receives notice of invalid TIN's from the IRS. Within 15 days of the date of the notice from the IRS, OFM sends a letter, accompanied by a B Notice (samples of first and second notices attached), notifying the vendor/payee that a name/TIN error has been identified and providing instructions regarding required actions to prevent backup withholding on future payments. If the vendor/payee does not respond within 30 days, OFM sets the backup withholding indicator on the ADPICS 5200 screen to “Y”. Any future payments made to that vendor number with comptroller objects that are 1099 reportable will have 28% withheld as backup withholding. The amounts withheld are remitted to the IRS and reported on the 1099 issued for that calendar year to that TIN. Backup withholding will continue until the vendor/payee certifies its correct name/TIN combination as instructed in the B Notice.